ORDINANCE GRANTING Α CONDITIONAL USE PERMIT (CUP) TO ALLOW THE EXPANSION OF EXISTING SCHOOL PURSUANT HIALEAH CODE 98-181(2)i. PROPERTY LOCATED AT 3580 WEST STREET, HIALEAH, FLORIDA. REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Hialeah, Florida at its regular meeting of April 14, 2009 directed the Law Department to provide this ordinance overriding the Planning and Zoning Board's recommendation of denial at its meeting of February 25, 2009; and

WHEREAS, the applicant proffers a declaration of restrictive covenants that provides that the maximum student population on the property will be no more than 800 students, that the school will provide traffic control personnel to direct traffic, including ingress and egress to the site, during peak traffic hours; that the existing garage will not be converted to habitable space and that the applicant will further provide and pay for any signalization that the County or Florida Department of Transportation may require, to which the City accepts.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: The foregoing facts and recitations contained in the preamble to this ordinance are hereby adopted and incorporated by reference as if fully set forth herein.

Section 2: The below-described property is hereby granted a Conditional Use Permit (CUP) to allow the expansion of an existing school pursuant to Hialeah Code § 98-181(2)i, which provides in pertinent part: "There shall be created and established a conditional use permit to be known as CUP conditional use permit . . . The following

ORDINANCE NO. 09-38
Page 2

uses would require a conditional use permit . . . Private schools, charter schools, vocational and technical schools, and post-secondary education facilities, colleges and universities." Property located at 3580 West 84 Street, Hialeah, Miami-Dade County, Florida, zoned M-1 (Industrial District), and legally described as follows:

TRACT A, BERNIE INDUSTRIAL, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 158, PAGE 2, OF THE PUBLIC RECORDS OF MIAMIDADE COUNTY, FLORIDA.

#### **Section 3:** Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

#### Section 4: Penalties.

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

#### Section 5: Additional Penalties upon Violation of Conditions of Use.

Any change of the terms and conditions of the use identified in this ordinance and as provided in the Declaration of Restrictive Covenants, if submitted, will cause a revocation of the city occupational license if issued in connection herewith and the property shall revert to the zoning classification without the benefit of the conditional use and associated variances.

# ORDINANCE NO. \_\_\_\_09-38\_Page 3

### Section 6: Severability Clause.

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

#### Section 7: Effective Date.

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

THE FOREGOING ORDINANCE OF THE CITY OF HIALEAH WAS PUBLISHED IN ACCORDANCE WITH THE PROVISIONS OF FLORIDA STATUTE 166.041 PRIOR TO FINAL READING Approved on this day of , 2009.  Rafael E. Granado, City Clerk  Mayor Julio Robeina		PASSED and ADOPTED this 12th day of _	May	_, 2009.
	Attest:	OF THE CITY OF HIALEAH WAS PUBLISHED IN ACCORDANCE WITH THE PROVISIONS OF FLORIDA STATUTE 166.041 PRIOR TO FINAL READINGApproved on this	Council President	

Approved as to form and legal sufficiency:

William M. Grodnick, City Attorney

This is corrected Ordinance 09-38. A scrivener's error was reported at the City Council meeting of June 9, 2009.

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Ordinance was adopted by a 6-0 vote with Councilmembers, Caragol, Casals-Muñoz, Cue, Gonzalez, Hernandez, Yedra voting "Yes" and Councilmember Garcia-Martinez absent.



CFM 2009R0376470

OR Bk 26876 Pa 4562; (2pa)

RECORDED 05/22/2009 15:30:19

HARVEY RUVIN, CLERK OF COURT

HIAMI-DADE COUNTY, FLORIDA

#### Prepared by and return to:

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City of Hialeah Planning Division 501 Palm Avenue, Second Floor Hialeah, FL 33010

## **DECLARATION OF RESTRICTIVE COVENANTS** (Corporate)

(I) (WE), Aledrien Investment Corp., Alexis Tejeda, President

Being the owner(s) of lands described herein: Tract A. Bernie Industrial, according to the plat thereof, as recorded in Plat Book 158, at Page 2, of the Public Records of Miami-Dade County, Florida

The street property address is 3580 West 84 Street. Hialeah, Florida 33018-4931

The folio number is 04-2028-093-0010.

make the following Declaration of Restrictive covenants covering and running with the above property, specifying that this restriction during its lifetime shall be for the benefit of and a limitation upon all present and future owners of the real property described above, in favor of and enforceable by the City of Hialeah, Florida.

In connection therewith, the undersigned covenants, represents and agrees as follows:

- 1. The premises located at 3580 West 84 Street, Hialeah, Florida, proffers that the maximum student population on the property will be no more than 800 students, that the school will provide traffic control personnel to direct traffic, including ingress and egress to the site, during peak traffic hours; that the existing garage will not be converted to habitable space and that the applicant will further provide and pay for any signalization that the County or Florida Department of Transportation may require.
- 2. This covenant is intended and shall constitute a restrictive covenant concerning the use, enjoyment, and title to the above-described property and shall constitute a covenant running with the land and may be recorded in the Public Records of Miami-Dade County, Florida. This covenant shall remain in full force and effect and shall be binding upon the undersigned, its (their) heirs, successors and assigns until such time as the same is modified, amended or released and may only be modified, amended or released by a written instrument executed by the then owner having fee simple title to the property affected or to be affected by such modification, amendment, or release; provided, however, the same is also approved by the City Council and the Mayor of the City of Hialeah, or its successors, by resolution, upon advertised notice, or by ordinance if the covenant is adopted by ordinance or as otherwise provided in Hialeah Charter.
- 3. Where construction has occurred on said property described herein, pursuant to a permit issued by the City of Hialeah, and inspection made and approval of occupancy given by the City, the same shall create a conclusive presumption that the improvements thus constructed comply with the intent and spirit of the restrictions referenced herein and this Declaration of Restrictive Covenants shall not be construed as clouding title of any of said property on which such development has occurred.

### **DECLARATION OF RESTRICTIVE COVENANTS** (Corporate)

IN WITNESS WHEREOF, We have hereunto se	et out hands and seals at
3580 W 84 St. this 11th	day of May, 2009
(location)	
Attest: Secretary:	Name of Corporation: Aledrien Investment Co
Typed/Printed Name	
	By: Profident. O Tailed
TWO IS	T White N
Witness Typed/Printed Name Obolco Interior	Typed/Printed Name
Witness	
Witness Typed/Printed Name 14 Vi MEDEN:	<del></del>
	Corporate Seal
STATE OF Flocids	
OF Florida COUNTY OF Mismi Dade	
OF Mismi Dade	
Transition Date	
(Name of Officer or Agent)	fore me on this 11 day of May, 2009 ent, and Alexis A. Tesikas Secretary, of (Name of Secretary)
Madria a Tarrelmant Cara comporati	on a Classic corneration
Name of Corporation)	(State or Place of Incorporation)
They are personally known to me or have product as identification and did (did not) take an oath ar representations contained herein.	ced the following $DL # \overline{1} 230 - \infty 1 - 69 - 066 - 066$ and who attest to the truth and accuracy of the
This document was prepared by:	
Name CUCNCH	Signature of Notary Public
Street Wet Sast	Name of notary typed, printed, or stamped Commission Number: DD 445 447
Higher Fl 32016 City State Zip Code	Notary Public State of Florida idalmis Cuenca  My Commission DD445447 Expires 09/06/2009

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#### Prepared by and return to:

City of Hialeah Planning Division 501 Palm Avenue, Second Floor Hialeah, FL 33010

CFN 2009R0641431

OR Bk 27001 Pss 2557 - 2558; (2pss)

RECORDED 09/03/2009 13:46:08

HARVEY RUVIN, CLERK DF COURT

MIAMI-DADE COUNTY, FLORIDA

## **DECLARATION OF RESTRICTIVE COVENANTS** (Corporate)

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ord.09.38

D.	LARATION OF RESTI	TIVE COVENANTS
(Cor	rporate)	

Attest:  Name of Corporation:  President  Typed/Printed Name  Signal Secretary:  Typed/Printed Name  By:  President  Typed/Printed Name  Witness  Typed/Printed Name  Corporate Seal Live  Typed/Printed Name  STATE  OF  COUNTY  OF  The foregoing instrument was acknowledged before me on this  by Alexis A. Tesek as President, and Alexis A. Tesek as Secretary, of  (Name of Officer or Agent)  Alekien Inchment Cop corporation, a  (Name of Corporation)  They are personally known to me or have produced the following  as identification and did (did not) take an oath and who attest to the truth and accuracy of the representations contained herein.  This document was prepared by:  Tabling Repeace of Notary Public  Street  Name of notary typed, printed, or stamped  Commission Number Public  Name of notary typed, printed, or stamped  Commission Number Public  Name of notary typed, printed, or stamped  Commission Number Public  Name of notary typed, printed, or stamped  Commission Number Public  Name of notary typed, printed, or stamped  Commission Number State of Foods  Notary Public Safe of Foods  Notary Public S	IN WITNESS WHEREOF, We have hereunto set out hands and seals at
Attest:    Secretary: Typed/Printed Name   By: President   Typed/Printed Name   By: President   Typed/Printed Name   Typed/Printed Name	3580 W 84 St. this 11th day of May, 2009
Scoretary: Typed/Printed Name Signal Secretary: Witness Typed/Printed Name Witness Typed/Printed Name  STATE OF COUNTY OF  The foregoing instrument was acknowledged before me on this by Alexis A. Tosekas Secretary, of (Name of Officer or Agent)  Alexis A. Tosekas Secretary, of (Name of Corporation)  They are personally known to me or have produced the following as identification and did (did not) take an oath and who attest to the truth and accuracy of the representations contained herein.  This document was prepared by:  ### County Officer Off	(location)
Typed/Printed Name  Signal Regled and delivered in the presentations  Witness Typed/Printed Name  Witness Typed/Printed Name  STATE OF  COUNTY OF  The foregoing instrument was acknowledged before me on this by Alexis A. Testes as Secretary, of (Name of Officer or Agent)  (Name of Officer or Agent)  Alexis A. Testes as President, and Alexis A. Testes as Secretary, of (Name of Secretary)  They are personally known to me or have produced the following as identification and did (did not) take an oath and who attest to the truth and accuracy of the representations contained herein.  This document was prepared by:  ### DO / Pris & Constant	
Witness Typed/Printed Name  Witness Typed/Printed Name  Corporate Seal Lips  STATE OF COUNTY OF  The foregoing instrument was acknowledged before me on this by Alexis A. Teses as President, and (Name of Officer or Agent)  (Name of Officer or Agent)  Alexican Local ment Corporation, a (Name of Corporation)  (Name of Corporation)  They are personally known to me or have produced the following as identification and did (did not) take an oath and who attest to the truth and accuracy of the representations contained herein.  This document was prepared by:  #### Description  Name  Name  **Street**  Name of notary typed, printed, or stamped Commission Number Description  Name of notary typed, printed, or stamped Commission Number Description  Name of notary typed, printed, or stamped Commission Number Description  Name of notary typed, printed, or stamped Commission Number Description  Name of notary typed, printed, or stamped Commission Number Description  Name of notary typed, printed, or stamped Commission Number Description  Notary Public Safe of Foliate  Name of notary typed, printed, or stamped Commission Number Description  Notary Public Safe of Foliate  Notar	Typed/Printed Name Signed scaled and delivered in the By:
Witness Typed/Printed Name  STATE OF OF OCUNTY OF  The foregoing instrument was acknowledged before me on this by Alexis A. Tesela as President, and Alexis A. Teselas Secretary, of (Name of Officer or Agent)  Name of Corporation)  They are personally known to me or have produced the following as identification and did (did not) take an oath and who attest to the truth and accuracy of the representations contained herein.  This document was prepared by:  ### DATA IS WENCH Name of notary typed, printed, or stamped Commission Number Data (In the Notary Public State of Planca)  Whench  ### DATA IS WENCH Name of notary typed, printed, or stamped Commission Number Data (In the Notary Public State of Planca)  Whench  ### DATA IS WENCH Notary Public State of Planca Islanta Supression Divided Stat	Alexis A. Tyrda  Tymed/Printed Name
Typed/Printed Name  STATE  OF  COUNTY  OF  Miami-Dale  The foregoing instrument was acknowledged before me on this by Alexis A. Tesela as President, and Alexis A. Tesela as Secretary, of (Name of Officer or Agent)  (Name of Officer or Agent)  (Name of Corporation)  They are personally known to me or have produced the following as identification and did (did not) take an oath and who attest to the truth and accuracy of the representations contained herein.  This document was prepared by:  This document was	Typed/Printed Name Ubc/co
STATE OF COUNTY OF Michi-Dele  The foregoing instrument was acknowledged before me on this by Alexis A. Teledas President, and Alexis A. Teledas Secretary, of (Name of Officer or Agent)  (Name of Secretary)  Aledica Thestment Corp. corporation, a  (Name of Corporation)  They are personally known to me or have produced the following as identification and did (did not) take an oath and who attest to the truth and accuracy of the representations contained herein.  This document was prepared by:  The foregoing instrument was acknowledged before me on this II day of Mexic, 2co9 (Name of Secretary)  (State or Place of Incorporation)  They are personally known to me or have produced the following as identification and did (did not) take an oath and who attest to the truth and accuracy of the representations contained herein.  This document was prepared by:  The foregoing instrument was prepared to the following by the foregoing instrument was prepared by:  The for	Typed/Printed Name
The foregoing instrument was acknowledged before me on this  by Alexis A. Tesek as President, and Alexis A. Tesek as Secretary, of  (Name of Officer or Agent)  (Name of Secretary)  Alekica Inchment Corp. corporation, a Corporation.  (Name of Corporation)  They are personally known to me or have produced the following by 1230-001-69-066-0  as identification and did (did not) take an oath and who attest to the truth and accuracy of the representations contained herein.  This document was prepared by:  They are personally known to me or have produced the following by 1230-001-69-066-0  as identification and did (did not) take an oath and who attest to the truth and accuracy of the representations contained herein.  This document was prepared by:  They are personally known to me or have produced the following by 1230-001-69-066-0  Signature of Notary Public  Name of notary typed, printed, or stamped Commission Number by 1450-1616 fored idamis cuenca My Commission DD445447	STATE
(Name of Officer or Agent)  Aledian Twestment Corp. corporation, a Florida corporation.  (Name of Corporation)  (State or Place of Incorporation)  They are personally known to me or have produced the following as identification and did (did not) take an oath and who attest to the truth and accuracy of the representations contained herein.  This document was prepared by:    1230 - col - 69 - 066 - 0	OF Miami- Dale
(Name of Corporation)  (State or Place of Incorporation)  They are personally known to me or have produced the following as identification and did (did not) take an oath and who attest to the truth and accuracy of the representations contained herein.  This document was prepared by:    The first contained herein	The foregoing instrument was acknowledged before me on this  by Alexis A. Tesek as President, and Alexis A. Tesek as Secretary, of  (Name of Officer or Agent)  (Name of Secretary)
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Commission Number: D. W. V.	
City: / State /in Code   Viv Expires valuations]	Commission Number: D. M. C. V. V. Notary Public State of Florida Idalmis Cuenca

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